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COMMITTEE ON ECONOMIC, SOCIAL
AND CULTURAL RIGHTS

CONSIDERATION OF REPORTS SUBMITTED BY STATES PARTIES
UNDER ARTICLES 16 AND 17 OF THE COVENANT

Concluding observations of the Committee on
Economic, Social and Cultural Rights

POLAND

1. The Committee considered the third periodic report of Poland on the implementation of the Covenant (E/1994/104/Add.13), along with the written replies to the list of questions, at its 10th to 12th meetings, held on 4 and 5 May 1998, and adopted* the following observations.

A. Introduction

2. The Committee welcomes the submission of the third periodic report of Poland, which it found to be comprehensive and to conform to its guidelines on the preparation of reports. The Committee also expresses appreciation for the additional information presented prior to and during the dialogue by a well-informed delegation, which enabled it to engage in a frank and constructive dialogue.

B. Positive aspects

3. The Committee notes with satisfaction the prominence accorded to economic, social and cultural rights in the new 1997 Constitution, which contains provisions protecting, inter alia, the rights freely to pursue an occupation, to safe conditions of work, to social security, to education and

* At the 26th meeting (eighteenth session), held on 14 May 1998.

to housing. It welcomes the State party's expressed intention to abide by international human rights standards, including the European Social Charter. The Committee also notes with interest that Poland has no substantive objections to ratifying International Labour Organization Convention No. 97 on migration for employment, No. 102 on minimum standards for social security, No. 159 on vocational rehabilitation and employment for disabled persons, and No. 176 on safety and health in mines. It further welcomes Poland's expressed intention to ratify Convention Nos. 102 and 176 and to examine the possibility of ratifying the other treaties in the near future.

4. The Committee further welcomes the status accorded to international legal instruments, including the Covenant, in Polish national law. Under the new Constitution, international treaties may be directly invoked in the courts, except for those considered not to be self-executing in nature. The Committee was assured that any provisions of the Covenant not considered to be self-executing will be adopted into domestic law and given effect in that way. It expresses satisfaction that in cases of conflict with national law, international treaties will prevail over national law.

5. The Committee welcomes the establishment and functioning of the office of the Commissioner for Citizens' Rights, who may be addressed by all persons and who appears to exercise sufficiently broad powers of investigation and application for redress from the relevant authorities. The Committee also notes that the new Constitution foresees the establishment of a Commissioner for Children's Rights. It looks forward to receiving information in the next report of the State party on the specific functions and authority entrusted to these posts, as well as on any follow-up to the decisions or recommendations of the Commissioners.

6. The Committee welcomes the success achieved during the last five years in terms of economic performance, particularly in controlling inflation, raising production and doubling the level of per capita income since 1994. It also expresses satisfaction that the State party has sought international assistance in implementing many social programmes and modernizing government facilities.

7. The Committee welcomes the recent Action Programme for Women, which includes among its objectives the elimination of violence against women, and notes with interest the assurances offered that domestic violence will be fully addressed in the next periodic report.

8. The Committee commends the efforts of the Government to upgrade its labour market services designed to improve access to employment opportunities, to retrain workers for jobs in demand, and to provide assistance to people wishing to move from overpopulated to underpopulated rural areas.

C. Factors and difficulties impeding the implementation of the Covenant

9. The Committee recognizes that there are, inevitably, difficulties arising from the process of political transition to a democratic form of government, as well as problems arising from transition to a market-oriented economy.

D. Principal subjects of concern

10. With respect to the question of minorities, the Committee notes with interest the treaty concluded with Germany on the subject of the German ethnic minority in Poland by which various rights of this group were given effect, including a fixed number of seats in Parliament and the right to operate a large number of schools. The Committee notes that similar treaties were not concluded with respect to other minority groups and is concerned that such a situation may lead to perceived or actual inequalities between minorities.

11. The Committee notes that under the new Constitution, Poland is a secular State with no formal role attributed to any religious denomination. The Committee is nevertheless concerned that policies and decisions of a social nature seem to be excessively influenced by particular religious considerations and do not take adequate account of the existence of minority religious groups.

12. The Committee notes that restrictions have recently been imposed on abortions that exclude economic and social grounds for performing legal abortions. The Committee expresses its concern that because of this restriction, women in Poland are resorting to unscrupulous abortionists and risking their health in doing so. The Committee is also concerned that family planning services are not provided in the public health-care system so that women have no access to affordable contraception.

13. The Committee also expresses concern at the rising incidence of domestic violence and of trafficking of young women, as acknowledged by the Government. It notes the absence of specific regulations on sexual harassment of women, the lack of shelters for the women and children who are victims of family violence in 33 per cent of voivodships, and the apparent lack of counselling facilities for such victims.

14. The Committee expresses deep concern that the right to work is not fully enjoyed by women. It notes that the principle of equal pay for equal work is not being respected. The Committee deplores, in particular, the fact that women earn on average only 70 per cent of the wages earned by men, despite their generally higher levels of education. It also notes the existence of discriminatory practices such as job advertisements specifying the preferred gender of the employees sought and women candidates for jobs being asked to take pregnancy tests, despite the existence of legislation prohibiting such practices.

15. The Committee notes that despite the efforts of the Government referred to in paragraph 8, there is high unemployment rate in the State party. The Committee is concerned over the large numbers of unemployed and underemployed persons, particularly youth in rural areas. The Committee suggests that the high unemployment figures may be partly attributable to the "grey" and "black" markets, where people work with no formal contract and pay little or no taxes and which is encouraged in large part by the high employment taxes. The Committee notes that measures to deal with these situations are new and awaits information on their results in the next periodic report.

16. The Committee draws the attention of the Government to article 11, paragraph 1, of the Covenant and to its General Comment 7 (1997) on the right to adequate housing. The Committee is concerned about existing legal provisions under which forced evictions may be carried out without provision for alternative lodging. The Committee also views with concern the problem of homeless people in Poland caused by the acute shortage of housing, the relatively high number of families living below the poverty line, the recent flooding and forced evictions.

17. The Committee expresses concern over the deteriorating health indicators that have been recorded during the last five years. It also draws attention to several areas of particular concern identified during the dialogue, namely, declining levels of nutrition, rising alcoholism, and increasing cardiovascular disease and cancers.

18. The Committee is concerned about the inadequate enforcement of occupational safety laws in Poland resulting in a relatively high number of accidents in the workplace, both in the private and the public sectors.

E. Suggestions and recommendations

19. The Committee recommends that special care be taken to ensure full respect for the rights of all religious groups, particularly concerning issues of national policy such as education, gender equality and health care. The Committee further recommends that the rights of all minority groups with regard to their right to participate in national political and economic life and the right to practise and teach their culture be fully respected.

20. The Committee recommends that every effort be made to ensure women's right to health, in particular reproductive health. It recommends that family planning services be made available to all persons, including counselling on safe alternatives to contraception and reliable and informative sex education for school-age children.

21. The Committee recommends that sexual harassment against women be prohibited by law. It recommends that shelters for women and children who are victims of family violence, with all necessary support facilities, including counselling and other assistance, be provided in all voivodships. It looks forward to receiving in the next periodic report detailed information on the problem of domestic violence and the results of the recently adopted Action Programme for Women.

22. The Committee recommends that the 1962 citizenship law, which discriminates against women by not granting them the same right as men to transmit citizenship to their foreign-born spouses, be abolished.

23. The Committee recommends that the right to work be fully protected for women as well as for men on the basis of equal pay for equal work. It suggests that a study be undertaken on the subject and requests that information on measures taken in this regard be contained in the next periodic report submitted by the State party.

24. The Committee urges the State party to take appropriate measures, especially increasing the number of State labour inspectors and strengthening their powers, in order to ensure that occupational safety legislation is properly implemented.

25. The Committee recommends that the conditions for permissible forced evictions be specified in law, with provisions that address the need for alternative lodging for those evicted. The Committee urges the State party to take all appropriate measures in addressing the problems of the acute housing shortage and homelessness. It further recommends that the basis for setting rental rates be determined in a way that protects the rights of both property owners and tenants, especially those among the most vulnerable groups of society. The Committee suggests that information on one's rights and responsibilities and the public and private avenues of assistance available in a market economy be provided to all consumers, in particular tenants. The Committee emphasizes that respect for the right to housing should include, when appropriate, measures to assist those whose homes are put in jeopardy or who are rendered homeless by dramatic rent increases due to the elimination of rental subsidies.

26. The Committee recommends that the State party engage in a large-scale public information campaign to promote healthy lifestyles among the Polish people in order to improve the quality of their nutrition, combat alcoholism and smoking, and reduce the risks of cardiovascular diseases and cancers. The campaign should extend to schools, where such information should be incorporated into the regular curricula.

27. The Committee urges the State party to accelerate the process of ratification of ILO Convention Nos. 102, 176, 97 and 159. It requests that information on that process, as well as on all points contained in these concluding observations on which information has been requested, be contained in the next periodic report submitted by the State party.

28. The Committee urges the State party to disseminate the present concluding observations widely.